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1 then they're going to use that reinsurer.

2 Q. Is there some kind of an annual or biannual
3 review conducted of these companies to continue to
4 upgrade or downgrade them, based on their financial
5 performance?

6 A. You'd have to ask the reinsurance
7 department.

8 Q. You are not involved in that -- you were
9 not involved in that?

10 A. No.

11 Q. Was there -- aside from a requirement that
12 reinsurers be approved, was there, to your knowledge,
13 any requirement that brokers showing business to your
14 office in London for New Hampshire also had to be
15 approved?

16 A. Yes.

17 Q. And were they approved in different
18 categories; that is, for direct business, for
19 reinsurance business?

20 A. Well, direct business is an entirely
21 different field. I think you're talking about
22 reinsurance. And reinsurance brokers would have to
23 be approved.

24 Q. Do you ever recall an instance where
25 Mr. Gumbrecht had written a piece of GAP film

1 financing business concerning which he had arranged
2 reinsurance, but it turned out that the broker was
3 not approved to arrange that reinsurance?

4 A. Not that I can recall offhand.

5 Q. Okay. With respect to the very risk we're
6 talking about here today -- that is, the Litto
7 working capital loan out of the Litto policy for a
8 motion picture called "The Crew" -- did you ever come
9 to learn that the insurance broker that presented
10 those businesses to Mr. Gumbrecht was not approved to
11 arrange reinsurance?

12 A. No.

13 Q. Okay. And that sort of would be important
14 if any of the risks were fronted, right?

15 A. Potentially.

16 Q. Okay. The arrangement for the reinsurance
17 with GenStar, I am told had a particular name to it
18 called Project Kraut (phonetic). Were you aware of
19 that?

20 A. I am now.

21 Q. You were not aware of it at the time?

22 A. No.

23 Q. Do you have any reason or any understanding
24 as to why they called it Project Kraut?

25 A. I --

1 MR. COTTON: You have to leave out
2 anything you learned from counsel.

3 Q. (BY MR. BANNIGAN) Yeah, anything you
4 learned from your counsel, you can't tell me.

5 A. All I knew was that the spreadsheet that
6 had been created, you know, to outline the risks to
7 GenStar was called Kraut Excel-S.

8 Q. Kraut Excel?

9 A. That's the software. Excel-S is a
10 Microsoft Excel spreadsheet.

11 MR. COTTON: No advertisements.

12 THE WITNESS: Sorry.

13 Q. (BY MR. BANNIGAN) What about the Kraut
14 part, where did that come from?

15 A. I think Rupert told me, at one point, that
16 there was -- one of the individuals at Ice Media that
17 had his nickname as the Kraut.

18 Q. Okay. I know who you mean. And was that
19 individual involved in helping to arrange the
20 reinsurance?

21 A. I don't know.

22 Q. Okay. During your -- withdrawn.

23 Prior to your leaving AIG, was an effort
24 made, to your knowledge, to centralize in New York
25 claims handling for all GAP film financing risks?

1 A. No.

2 Q. Claims were handled, before you left, in
3 the normal way that claims had been handled before
4 that?

5 A. Yeah.

6 Q. Okay. And just to make sure I understand
7 it, the normal way is that claims would be handled by
8 the claims individuals in the province that wrote the
9 risk, unless it got to a certain level, when it was
10 referred to New York through the large claims report.
11 And exactly what happened after that, I didn't ask
12 you, and I'm not sure you know. Do you?

13 A. No. How the claim department organized,
14 you know, where they'd manage the claims out of,
15 you'd have to ask the claim department. But in this
16 case, it was London.

17 Q. In this case?

18 A. It was London.

19 Q. It was London. Okay. At least until you
20 left?

21 A. Right.

22 Q. Now, at some time after you did your audit,
23 up until the time you left, did you ever have
24 occasion to read any of the policies that had been
25 issued by the New Hampshire covering GAP film

1 financial risks?

2 A. In the course of some of my business --
3 visits to London in 1999, I looked through files. I
4 recall there were placing slips there. I don't
5 recall reading through a formal policy.

6 Q. Okay. When you looked --

7 A. I don't recall reading a policy, I guess is
8 the answer.

9 Q. What I'm trying to do is get your
10 understanding as to whether -- well, withdrawn.

11 At least in London, when they're talking
12 about the terms of an insurance policy, they
13 frequently call it "the wording."

14 A. Yes.

15 Q. Are you familiar with that?

16 A. Yes.

17 Q. Did you have occasion to look at, in
18 quotes, wordings, with respect to any of the GAP film
19 finance policies?

20 A. I believe I did.

21 Q. Okay. Sometimes the wordings that were
22 going to be in the policy are actually on the slip,
23 depending on who prepared the slip and how detailed
24 it is; sometimes it's not.

25 I guess my question to you, ultimately, is:

1 When you -- to the extent that you had a chance to
2 look at some of the wording, was there anything about
3 any of the wording that you found unusual?

4 A. I don't recall.

5 Q. Okay. Did you ever come to learn that
6 under some versions of GAP film financing risks, that
7 the wordings basically foreclosed to the
8 underwriters, in the event of a claim, from raising
9 defenses based on nondisclosure?

10 MR. COTTON: I'll object to the form.
11 You can answer.

12 A. I think I may have read that.

13 Q. (BY MR. BANNIGAN) To the extent that you
14 can recall having heard that, do you recall what your
15 reaction was to that?

16 A. My immediate reaction was trying to
17 understand what circumstances we could. In other
18 words, did such a contract stand under contract law.
19 You know, how -- what's -- well, what's the conflict,
20 if there is one, between that and standard contract
21 law.

22 Q. Did -- when you came to understand that
23 there were wordings out there that raised this
24 question about the ability of the company to avoid on
25 the basis of nondisclosure, were you concerned that

1 any underwriter would have written a policy
2 containing such language?

3 A. I found it unusual.

4 Q. Not standard?

5 A. Yes.

6 Q. Okay. Now, was there any procedure in
7 place at AIG -- and I mean that in the broadest
8 sense, which would include New Hampshire and include
9 your operations -- where, when a policy was written
10 that wasn't standard for the type of business that
11 was being underwritten, the policy had to be reviewed
12 before the risk could be bound?

13 A. That would vary by type of business.

14 Q. Okay. Let's go to the entertainment area.
15 In the entertainment area, was there any requirement
16 that if a policy was to be authorized -- by that, I
17 mean by the underwriter -- if it was nonstandard,
18 that it contained clauses which were unusual, it had
19 to be reviewed by some other area of the company
20 before it could -- the business could be bound?

21 A. No.

22 MR. BANNIGAN: Now, on -- I want to
23 put this on the record with you, Stuart. We received
24 certain transcripts pursuant to confidentiality
25 understanding, and those are transcripts which were

1 taken in another litigation involving Silicon Valley
2 Bank. In connection with those transcripts, there
3 were also exhibits marked.

4 It's my understanding, based on Judge
5 Gammerman's position on this, as well as my
6 understanding with you, that we are entitled to use
7 those materials within the context of this case.

8 Now, if we have a different understanding
9 on that, you should speak up now; otherwise, I want
10 to mark a document.

11 MR. COTTON: Well --

12 MR. BANNIGAN: I'd be happy to show
13 you the document.

14 MR. COTTON: Yeah, why don't you --
15 why don't we do that.

16 MR. BANNIGAN: Let's go off the record
17 on that.

18 (Break was taken at 12:36 p.m. for
19 less than one minute.)

20 MR. BANNIGAN: I have received a
21 number of documents from Mr. Cotton that were
22 produced in another case involving film finance. I
23 have an understanding with him that we will treat
24 those documents as confidential, but for use within
25 this case and that we are reserving our right,

1 subject to Judge Gammernan's further directions, to
2 seek to use them in all the other cases involving
3 Chase Manhattan Bank and film financing. Okay?

4 MR. COTTON: I agree no rights are
5 waived, including ours, to disagree with the position
6 you take. And we'll --

7 MR. KLINE: I'd just like to say that
8 we would like to reserve our rights to use these
9 documents in the other litigation, which I guess also
10 involves Chase Manhattan Bank.

11 (Exhibit Numbers 801 and 802 were marked.)

12 MR. COTTON: 801 is the --

13 MR. BANNIGAN: 801 is the single --
14 I'll identify them on the record. But they're in the
15 order in which I'm going to use them.

16 Q. (BY MR. BANNIGAN) Mr. Murphy, I'm showing
17 you two documents marked, respectively, 801 and 802.
18 The first is a single-page document, and the second
19 is a two-page document. And I'll just ask you
20 whether you have ever seen these documents before?

21 A. I believe I've seen this one. I'm not sure
22 about this one.

23 Q. "This one" being?

24 A. I'm not sure about 801. I believe I've
25 seen 802.

1 Q. Okay. And what were the circumstances
2 under which you saw 802, if you remember them, other
3 than what the documents say?

4 A. What the document said. This is a normal
5 loss notification.

6 Q. You don't have any recollection of learning
7 any other information about this particular loss,
8 other than set forth on the document?

9 A. What's the answer to that question? Was
10 that a yes or no question?

11 Q. Do you have any information concerning the
12 risk as to which this loss relates, other than what
13 is set forth in the document itself?

14 A. Not that I recall.

15 Q. Turn back to 801. And I know you don't
16 have a recollection, as you sit here today because
17 you haven't see it, but just take a read of the
18 next-to-the-last paragraph there, which I'll read
19 into the record.

20 "You will note that Clause 4.7 there is
21 what amounts to an innocent nondisclosure clause so,"
22 comma, "even if there are coverage issues, it is
23 unlikely we will be able to exercise our usual
24 rights," period.

25 Having read that clause, is your

1 recollection refreshed at all concerning the fact
2 that there were clauses in some GAP film financial
3 policies which restricted the underwriters' or the
4 insurers' rights to avoid?

5 A. It doesn't add any more to my recollection.
6 I would note that it does say "innocent
7 nondisclosure."

8 Q. I know. But beyond what you've testified
9 to about your understanding of the policy wording,
10 this doesn't provide you --

11 A. Doesn't jog anything, no.

12 Q. -- provide you with any additional
13 information?

14 A. No.

15 Q. You can just leave those. Now, when you
16 left AIG, to your knowledge, did somebody assume your
17 position?

18 A. I have no knowledge.

19 Q. You don't know. Was there ever --
20 withdrawn.

21 In London, to your recollection, prior to
22 your leaving, was there a merger of the underwriting
23 operations of Lexington and AIG Europe U.K. writing
24 for New Hampshire?

25 A. No.

1 Q. Was there any kind of a merger between
2 those two organizations in London?

3 A. No.

4 Q. Did you ever meet an underwriter by the
5 name of Mitchell?

6 A. First name?

7 Q. It's escaping me.

8 MR. KLINE: Stephen.

9 Q. (BY MR. BANNIGAN) Stephen Mitchell?

10 A. I've heard the name. I may have -- I may
11 have met the individual once in my various trips to
12 London.

13 Q. Was he working for --

14 A. I think he was working for Lexington,
15 wasn't he?

16 Q. Yeah, that's true at one point. Do you
17 know that he came to work for AIG at some point?

18 A. No.

19 Q. In any event, you're not aware of any
20 merger of the underwriting operations of Lexington
21 and New Hampshire by AIG Europe?

22 A. No.

23 Q. Okay. Now, you left AIG in December '99,
24 correct?

25 A. Correct.

1 Q. I believe -- is it correct that Mr. Green
2 also left in December of '99?

3 A. Yes, I believe so.

4 Q. Was the fact that you both left at or about
5 the same time just totally coincidental, as far as
6 you know?

7 A. It was largely coincidental.

8 Q. To the extent that it wasn't coincidental,
9 what was it about it that was not?

10 A. I had decided to pursue, you know, this
11 other interest I had. I think Tim was anxious to
12 return to the U.K.

13 Q. Let me come back and be more completely
14 direct. Was your departure from AIG and Mr. Green's
15 departure from AIG -- and, again, I use that "AIG" as
16 the big company -- in any way whatsoever related to
17 the fact that AIU's people in London had written GAP
18 film finance business?

19 A. No.

20 Q. Now, did you have occasion, before you came
21 in here this morning, to do any preparation at all
22 for this deposition?

23 A. I had a conversation.

24 Q. Okay. Who did you speak to? Not what you
25 spoke about. Who did you speak to?

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1 A. This gentleman to my right.

2 Q. Okay. Mr. Cotton. And when did you speak
3 to him?

4 A. Yesterday.

5 Q. Was that the first time you spoke to him?

6 A. Ever?

7 Q. Well, why don't we start there, sure.

8 A. No. I had -- I had a conversation with
9 Stuart and a couple of other people at AIG last year.

10 Q. What were the circumstances under which
11 that took place?

12 A. They just wanted to ask me about what I
13 knew about this GAP financing issue.

14 Q. Okay. At the time that you had that
15 conversation, were you being represented by
16 Mr. Cotton?

17 A. No.

18 Q. Okay. So you didn't have any lawyer at
19 that time?

20 A. No.

21 Q. Well, tell us what you said to them and
22 what they said to you?

23 A. Pretty much described, you know, exactly
24 what we're talking about here, you know, the chain of
25 events that took place as I understood them in our

1 writing this business.

2 Q. And who besides Mr. Cotton conducted that
3 interview?

4 A. One other gentleman's name, I believe, was
5 Eric Krobick. I'm not sure if I recall -- I do not
6 recall the third person's name.

7 Q. Is he with the company, or is he with
8 Mr. Cotton's firm?

9 A. I don't recall.

10 Q. You don't know where he's from?

11 A. True.

12 Q. Did you make any notes during the course of
13 that interview?

14 A. No.

15 Q. Do you know whether they made any notes
16 during the course of that interview?

17 A. I do not know. They may have, but I
18 couldn't --

19 Q. How long did the interview take place?

20 A. -- testify on it.

21 Q. If I cut you off, I'm sorry. How long did
22 that interview take place?

23 A. An hour or two.

24 Q. And was it on the phone or face-to-face?

25 A. Face-to-face.

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1 Q. Here in Texas or in New York?

2 A. In New York.

3 Q. Okay. You came up for that?

4 A. I was still in New Jersey at the time.

5 Q. Oh, okay. You came into New York for that?

6 A. Right.

7 Q. Okay. And aside from your conversation
8 with Mr. Cotton yesterday, the meeting that you just
9 testified about last year, and perhaps a telephone
10 call from him to set up this deposition, were there
11 any other occasions when you spoke to him?

12 A. No.

13 Q. And how long was your conversation with
14 Mr. Cotton yesterday?

15 A. Maybe three hours, two hours, something
16 like that.

17 Q. And the substance of which was to review
18 the same things you'd talked about -- no detail -- a
19 year ago?

20 A. Yes.

21 Q. Did you look at any documents --

22 A. No.

23 Q. -- in preparation for today's session?

24 A. (Moves head side to side.)

25 Q. Do you have any documents that you took

1 with you when you left AIG that relate in any way
2 whatsoever to film financing?

3 A. No.

4 Q. Have you ever given a deposition before?

5 A. No.

6 Q. Have you been asked to give any depositions
7 besides this particular one?

8 A. No.

9 Q. It's coming. I'm kidding.

10 MR. COTTON: This is it.

11 MR. BANNIGAN: Well, for me.

12 Q. (BY MR. BANNIGAN) Do you have any kind of
13 a consulting arrangement with your former employer,
14 AIG?

15 A. No.

16 Q. Do you have any understanding with them
17 whatsoever, written or otherwise, that you will
18 cooperate with them in connection with any litigation
19 arising out of the GAP film financing business
20 underwritten in London?

21 A. No.

22 Q. Do you have any arrangement with them that
23 to the extent that you are called upon to be of some
24 assistance, such as in this deposition, that you will
25 be compensated for your time?

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1 A. No.

2 Q. And you're not being compensated to be here
3 today, correct?

4 A. No. Wish I were.

5 Q. And you weren't compensated for the time
6 you spent, other than the pleasure of his company,
7 yesterday with Mr. Cotton; is that true?

8 A. That's correct.

9 Q. Okay.

10 MR. COTTON: There was coffee.

11 THE WITNESS: That's true. I'm not
12 sure if that comes under compensation.

13 MR. BANNIGAN: You'll have to decide
14 that.

15 Q. (BY MR. BANNIGAN) When was the last time
16 you spoke to Mr. Green?

17 A. Probably 18 months ago, shortly after --

18 Q. All right. And I think you testified that
19 you've never spoken to Mr. Gumbrecht since he left?

20 A. Right.

21 Q. And at least in so far as it relates to GAP
22 film financing business, you never spoke to
23 Mr. Filapek?

24 A. Correct.

25 Q. Since you left the big AIG, has anybody

1 consulted you at all about any of the claims that
2 have been made by the insureds in respect of GAP film
3 financing risks that were written in London through
4 AIG Europe U.K., other than the meeting you had in
5 New York?

6 A. I got a call from a Chase attorney. I
7 don't recall if it was you or not.

8 Q. It was me. You didn't call me back either.

9 A. I apologize.

10 Q. It wasn't easy finding you.

11 A. My wife wondered about that.

12 MR. BANNIGAN: Off the record.

13 (Break was taken from 12:52 p.m. to 1:01 p.m.)

14 MR. BANNIGAN: I have no further
15 questions. And thank you for your time, Mr. Murphy.

16 THE WITNESS: Thank you.

17 EXAMINATION

18 BY MR. KLINE:

19 Q. Mr. Murphy, my name is Jonathan Kline. I
20 represent the various Heath entities, as I mentioned
21 earlier. I'm going to ask you a few questions. I
22 don't anticipate that I'm going to be finished by
23 1:45 though. I'll endeavor to speed my questions
24 along. But in the event that I'm not, I'm going to
25 reserve the right to continue this deposition at a

1 later date.

2 A. Okay.

3 Q. As long as you understand that?

4 A. I understand.

5 MR. KLINE: I know Mr. Cotton may have
6 something to say about that, but we'll take that up
7 another day.

8 MR. COTTON: Well, your rights are
9 reserved.

10 MR. KLINE: Yes. Thank you.

11 Q. (BY MR. KLINE) You testified earlier that
12 you were aware of an individual named Stephen
13 Mitchell?

14 A. I've heard the name, yes.

15 Q. Okay. And I think you -- when -- you
16 agreed that he probably worked for Lexington
17 Insurance in London; is that correct?

18 A. I believe he did.

19 Q. Do you have any recollection or knowledge
20 about any cross -- strike that.

21 Do you have any recollection or knowledge
22 about any involvement he had with Peter Gumbrecht in
23 their underwriting of various film risks?

24 A. I believe, as I stated, I've come to learn
25 that there was sharing of risks. And I imagine, in

1 that process, there was conversation that took place.

2 Q. Did you -- were you aware of this at the
3 time the risks were placed?

4 A. No, because I wasn't aware the risks were
5 being placed.

6 Q. What is your understanding of the
7 Destination Films placement, the original placement?
8 Do you have a current awareness of the original
9 placement?

10 A. Very little. Destination Films, to me,
11 doesn't represent much more than a line on a
12 spreadsheet with 100 million in limits.

13 Q. Is this a -- is this part of the risks that
14 were ceded to GenStar?

15 A. Yes.

16 Q. Are you aware that the bonds that were
17 guaranteed by the insurance in the Destination --
18 well, strike that.

19 Were you aware that the nature of that risk
20 was insurance guaranteeing the performance of certain
21 bonds?

22 A. No.

23 Q. Were you aware that the bonds -- strike
24 that.

25 Are you aware of any letters exchanged

1 between AIG and Standard & Poor's regarding the
2 rating of any bonds in Destination?

3 A. No.

4 Q. Do you feel you had a full understanding of
5 the nature of AIG's exposure when you sought the
6 treaty with General Star?

7 A. Yes.

8 Q. Okay. Can you recap for me the nature of
9 your understanding of the risks that AIG faced, at
10 that time, in dollar terms?

11 A. I don't recall the aggregate amounts,
12 although, I believe I did summarize that in that
13 cover letter to Tom Tizzio and Martin Sullivan.

14 MR. KLINE: Is that cover letter
15 something you've requested the production of?

16 MR. BANNIGAN: If I haven't, I do.

17 MR. KLINE: I thought you did. We'd
18 like to request production of that cover letter, to
19 the extent it wasn't asked for before. I can't
20 recall personally.

21 MR. COTTON: Okay.

22 Q. (BY MR. KLINE) Now, this cover letter that
23 you wrote to Tom Tizzio and the other individual --
24 what was his name?

25 A. Martin Sullivan.

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1 Q. Martin Sullivan. And forgive me if you've
2 answered this question already today. But what was
3 the purpose of that cover letter, other than to
4 suggest that that reinsurance be purchased?

5 A. It was to alert most senior management at
6 AIG that we had written this business, that we had
7 this exposure on our books.

8 Q. Did you receive a response to that letter?

9 A. No. It wasn't requiring a response.

10 Q. So there was no written response?

11 A. Correct.

12 Q. Was there a -- were there verbal
13 communications after you wrote that letter?

14 A. I had a conversation with Tom Tizzio
15 explaining to him in person what I knew of the
16 business.

17 Q. Okay. And what did you tell him at that
18 time, if you recall?

19 A. A lot of what we've rehashed here, how this
20 came about, what I understood, you know, the nature
21 of the business to be.

22 Q. Okay. And did you reiterate, at that time,
23 the need for the facultative reinsurance from General
24 Star?

25 A. I did not advocate that step.

1 Q. Okay. Who made the decision to purchase
2 this facultative reinsurance?

3 A. I was instructed to do it by Joe Smetna.

4 Q. By Joe Smetna. Is it your understanding
5 that Mr. Smetna made the decision to purchase -- that
6 AIG should purchase this reinsurance?

7 A. I don't know whether he made it himself or
8 whether he did it in consultation with others.

9 Q. In the ordinary course of business, would
10 it generally be his responsibility to make that
11 decision?

12 A. It could well be.

13 Q. You don't know for a fact, one way or
14 another?

15 A. Well, he had -- I worked for him, so he
16 could tell me what to do. That was the way it
17 worked.

18 Q. Sure. I understand. Now, do you
19 understand, at this point, there have been some
20 losses that have accumulated on the various GAP
21 financing film risks?

22 A. I'm under that impression.

23 Q. Okay. Had any of these losses accumulated
24 at the time you left AIU?

25 A. Yes, losses had shown up at that point.

1 Q. And had claims been made at that point?

2 A. Yes.

3 Q. And were any of these claims paid?

4 A. Yes.

5 Q. They were. Do you recall which claims were
6 paid?

7 A. No. At the time we reinsured it with
8 GenStar, I recall that there was a loss up at that
9 point, which we had disclosed as part of the
10 placement.

11 Q. Right. And if I recall correctly, was that
12 Jules -- no, that wasn't Jules Verne. Was there a
13 name for that risk?

14 A. I don't recall what the individual
15 production was.

16 Q. Okay. Were you involved -- strike that.
17 At some point, to your recollection, did
18 there come a time when other claims were made?

19 A. Yes.

20 Q. Was this during your employ with AIU still?

21 A. Yes.

22 Q. And were those subsequent claims paid?

23 A. I don't know which were paid and which were
24 not.

25 Q. Okay.

1 A. Well --

2 Q. Please continue if you're not done.

3 A. Well, at that point in time, I think we
4 were talking about putting up reserves. And
5 payments, you know, would follow some time
6 afterwards.

7 MR. COTTON: I'd like the question and
8 the answer, please.

9 (Requested portion was read.)

10 Q. (BY MR. KLINE) Can you recall at what
11 point in time that was?

12 A. At the time losses -- I was aware of
13 losses?

14 Q. No. You mentioned putting up reserves.
15 You said, at this point in time, you put up reserves.

16 A. That would be at various times, as losses
17 come in.

18 Q. So if I understand you correctly, there
19 were multiple claims?

20 A. Yes.

21 Q. Okay. Were you involved in any decision to
22 pay or not pay claims?

23 A. No.

24 Q. Who was involved in that then, any decision
25 of that nature?

1 A. That's typically a claims function.

2 Q. Okay. And who would that be, in relation
3 to these risks? Or who would it have been when you
4 left the employ of AIU?

5 A. The head of the claims department and Joe
6 Burns, who was the senior claims person in New
7 York --

8 Q. Okay.

9 A. -- for AIU, for casualty claims.

10 Q. Okay. Now, you've mentioned posting
11 reserves. Would that be your responsibility, or
12 would that, again, be a claims function?

13 A. Claims function.

14 Q. Now, we've talked about the cession with
15 General Star a little bit. Are you aware of any
16 present dispute, at this time, between New Hampshire
17 and General Star concerning that cession?

18 A. No.

19 Q. Were claims ceded to that policy while you
20 were at AIU?

21 A. Yes.

22 Q. Would that be the one claim that we've
23 previously discussed?

24 A. Yes.

25 Q. No subsequent claims were ceded to that --

1 to that reinsurance policy that you're aware of?

2 MR. COTTON: Subsequent to what?

3 MR. KLINE: Subsequent to the one that
4 he just described.

5 A. Every time we would set up a claim, we
6 would be ceding it to that facility.

7 Q. (BY MR. KLINE) Are you aware of the level
8 of the reserves for any of the losses described by
9 you?

10 MR. KLINE: Do you want me to clarify
11 the question, Mr. Cotton?

12 MR. COTTON: No, that's fine.

13 A. I don't remember specific amounts. I think
14 in some cases, it would -- some of the -- one or two
15 of the policies would be reserved, in effect, at the
16 policy limit, whatever that limit would be.

17 Q. (BY MR. KLINE) Okay. Was Christian
18 Milton, from AIG New York, involved in the decision
19 to purchase the reinsurance through General Star?

20 A. No.

21 Q. Did you ever see any of the presentation
22 materials presented to underwriters concerning the
23 Phoenix transaction?

24 A. I don't have any specific recollection of
25 it.

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1 Q. Do you --

2 MR. COTTON: Mr. Kline, I recognize
3 that with Judge Gammerman's rulings that anything can
4 be asked of any witness and there better not be any
5 objections, but questions of relevance are perhaps a
6 little out of place. But I nonetheless am curious
7 about what you think the relevance of Phoenix is to
8 Litto or J & M or anything else we're here to talk
9 about.

10 MR. KLINE: Allegations have been
11 made, in all the actions involving my client,
12 concerning activities undertaken on the Phoenix deal.
13 I'm concerned that -- I'm concerned -- if you don't
14 think this is the time and place for this
15 questioning, I can understand that. But I'm
16 concerned that, in light of the order, we have to ask
17 our questions, or we risk not having the opportunity.

18 I'm -- you know, if you -- I can deal with
19 other areas of questioning. I'm certainly not going
20 to finish in the next 25 minutes.

21 MR. COTTON: Given Judge Gammerman's
22 order, I'm not asking you to stay away from anything.
23 I just --

24 MR. KLINE: There are allegations
25 concerning Phoenix made by -- made by insurers,

1 including your client, as I recall, through its
2 incorporation of certain of AXA's pleadings.

3 MR. COTTON: I'm not so sure of that,
4 but we're not going to debate that. You've only got
5 20 minutes left, so forge ahead.

6 MR. KLINE: Okay. I'm only going to
7 ask limited questions on these issues.

8 MR. COTTON: Well, the sky's the
9 limit.

10 MR. KLINE: You didn't answer the --

11 THE WITNESS: Yes, I did.

12 MR. KLINE: You did answer the
13 question? Can I have the -- can I have the last
14 question and answer read back?

15 (Requested portion was read.)

16 Q. (BY MR. KLINE) When you went to review the
17 various files maintained in the London office by
18 Mr. Gumbrecht, I believe you mentioned earlier --

19 THE REPORTER: I'm sorry.

20 MR. KLINE: I'm sorry. Am I speaking
21 too fast?

22 THE REPORTER: Just too soft.

23 MR. KLINE: Too soft. Okay.

24 THE REPORTER: By mister who?

25 MR. KLINE: I'll start fresh.

1 Q. (BY MR. KLINE) When you went to London in
2 early 1998 to review Mr. Gumbrecht's files, did
3 you -- did those files contain any of the
4 presentation materials presented to underwriters, to
5 your knowledge?

6 A. No.

7 Q. Did, at any point in time, you become aware
8 that there were placement materials concerning
9 various GAP financing deals?

10 A. I have no specific recollection of what
11 placement -- what the placement materials looked
12 like.

13 Q. Okay. Are you aware of -- are you aware,
14 generally, of the process of underwriting in the
15 London market?

16 A. Generally.

17 Q. Do you understand -- do you agree with me
18 that, ordinarily, brokers come to see underwriters?

19 A. Yes.

20 Q. And ordinarily, they bring some materials
21 with them?

22 A. Yes.

23 Q. Okay. Do you have any understanding of
24 what happens to those materials after the meeting
25 between a broker and an underwriter?

1 A. In some -- this is not my field of
2 expertise. But in some cases, I would imagine it
3 would be left with the underwriter; in some cases,
4 taken with them for the next conversation with the
5 next underwriter.

6 Q. Do you have any recollection of seeing any
7 placement materials concerning any of the Paramount
8 films?

9 A. The placement materials, as you describe
10 them, that I recall seeing were along the lines of a
11 placing slip. It doesn't seem like the London method
12 of presenting risk is as formal as it is in the U.S.

13 Q. Do you recall seeing any materials
14 concerning the placement of any of the GAP financing
15 risks, other than a placement slip?

16 A. I believe we would have, in some cases in
17 our files, risk management reports from the risk
18 manager.

19 Q. Okay. And do you recall who the risk
20 manager was whose reports you saw?

21 A. There were several. Ice Media is one I
22 recall.

23 Q. And you don't recall any others, as we sit
24 here today?

25 A. I don't recall the names. I know there

1 were a couple of others that were used.

2 Q. Okay. Do you recall seeing any placement
3 materials concerning any of the J & M films?

4 A. No.

5 Q. Would you know what the J & M films are as
6 you sit here today?

7 A. No.

8 Q. Are you aware of whether New Hampshire
9 subscribed to the Paramount risks?

10 A. Paramount was a name that was on the
11 spreadsheet, so I'm not sure if that's the same risk
12 you're talking about.

13 Q. Okay. Do you know whether Lexington
14 subscribed to the Paramount?

15 A. I don't know.

16 Q. Are you familiar with an individual from
17 Lexington named Rob Brace?

18 A. I've heard the name. I think he ran the
19 entertainment business before Sal Nosiferro.

20 Q. Okay. When did Sal Nosiferro start running
21 the entertainment business?

22 A. I don't know as a fact. I first became
23 aware of him probably in early 1998.

24 Q. Okay. So is it your understanding that
25 Mr. Brace was out of the organization at that point?

1 A. I believe so.

2 Q. Did you ever have any personal contact with
3 him?

4 A. No.

5 Q. Was there any one person who was
6 responsible for overseeing the entertainment business
7 of New Hampshire and Lexington?

8 A. No.

9 Q. The closest person would be this guy,
10 Mr. Lewis, if I recall correctly?

11 A. Lewis was not -- he was not an underwriting
12 chain of command. Lewis was someone who had
13 financial expertise. So that's why he was involved.

14 Q. Right. But he had some involvement on both
15 the Lexington and the New Hampshire end; is that
16 correct?

17 A. Yes, as a --

18 Q. In a financial capacity?

19 A. Right.

20 Q. I just want to go back a bit to your
21 personal experience as an underwriter. You testified
22 that you had mostly experience in the medical
23 malpractice field in underwriting medical
24 malpractice -- strike that.

25 I believe you testified that your under --

1 you had some underwriting experience writing medical
2 malpractice policies; is that correct?

3 A. That's correct.

4 Q. Do you have any other underwriting
5 experience in other areas?

6 A. Yes.

7 Q. Forgive me if you've asked -- if you've
8 answered this already.

9 A. I have experience in large casualty account
10 underwriting, umbrella underwriting, surplus lines
11 underwriting, little bit of exposure to pollution
12 underwriting coverages. And prior to AIG, very
13 little exposure to the entertainment business.

14 Q. What types of large casualty risks had you
15 been involved in underwriting?

16 A. Oh, Fortune 500 accounts which involved
17 their workers' compensation and liability, commercial
18 auto, and other coverages surrounding their operating
19 their business.

20 Q. At the time that the cession to General
21 Star was prepared, who was the person most
22 knowledgeable in the London office about the risks
23 being ceded?

24 A. That would be Tim and Rupert.

25 Q. And do you recall exactly what time -- at

1 what time that was prepared?

2 A. It was very end of '98 and beginning of
3 '99. I think -- I want to say the slip was signed in
4 mid-January.

5 Q. And that was after Peter Gumbrecht
6 departed?

7 A. Yes.

8 Q. With respect to Ice Media's involvement as
9 a risk manager on that reinsurance placement, I think
10 you mentioned that they analyzed the losses; is that
11 correct?

12 A. Yes.

13 Q. Who employed Ice Media to do that?

14 A. I believe the contract was actually with
15 GenStar after we made the reinsurance.

16 Q. Okay. So they were -- am I -- am I correct
17 that you're saying that they were brought in after
18 the agreement was reached between New Hampshire and
19 GenStar?

20 A. No. They were part of the agreement.

21 Q. They were part of the agreement. Okay.
22 And did GenStar pay their fee, whatever it was?

23 A. I believe so.

24 Q. Do you recall what their fee was?

25 A. No.

1 Q. Did Mr. Gumbrecht maintain a file
2 concerning his evaluation of Ice Media?

3 A. I don't know.

4 Q. You mentioned earlier that it's your
5 understanding that Mr. Gumbrecht evaluated Ice Media
6 as a risk manager; is that correct?

7 A. Yes.

8 Q. But you're not aware as to whether there --
9 he maintained anything in writing?

10 A. That's correct.

11 Q. And when you reviewed the documents or
12 caused you to review the documents that were in the
13 London office, did anything turn up in terms of
14 writing?

15 A. No.

16 Q. Were you aware as to what General Star's
17 position was as a direct insurer of the various risks
18 they were reinsuring from New Hampshire?

19 A. I understood that GenStar had -- was
20 experienced in writing this business on their own
21 account, as well as being interested in reinsuring
22 AIG's book.

23 Q. Are you aware of any specific -- any
24 specific overlap for General Star between the
25 reinsurance and the direct insurance?

1 A. No.

2 Q. Now, you testified that -- I believe that
3 Tim Green told you that the various risks that he
4 bound New Hampshire to, he did at Peter Gumbrecht's
5 direction; is that correct?

6 A. That's correct.

7 Q. Now, Mr. Gumbrecht left the employ of
8 New -- of AIG in 1998?

9 A. Correct.

10 Q. Can you tell me -- do you have a
11 recollection of exactly when that was?

12 A. It was October. I don't know the specific
13 date.

14 Q. Okay. And when did Mr. Green start working
15 in the same office as Mr. Gumbrecht?

16 A. Well, Tim came on early '98. It was
17 shortly after I did that audit, as I recall. And
18 Tim's presence in London allowed Peter to go to
19 Paris.

20 Q. Okay. So their employment overlapped for a
21 certain amount of time; is that correct?

22 A. Well, Tim reported to Peter. Peter was
23 physically located in Paris and would make periodic
24 trips to London.

25 Q. Okay. And was Mark Filapek also employed

1 at the same time?

2 A. Yes.

3 Q. And did Filapek report to Green or to
4 Gumbrecht?

5 A. To Green at that point.

6 Q. Do you have any knowledge concerning the
7 completeness or accuracy of materials presented to
8 New Hampshire's underwriters in the placement of any
9 of the film risks?

10 A. No.

11 Q. In the ordinary course of business, would
12 you be aware of those -- strike that.

13 At the time you were employed by AIU, in
14 the ordinary course of business, would you have been
15 aware of the adequacy of those materials?

16 A. Not on individual accounts, no.

17 Q. So the individual underwriter wouldn't have
18 a responsibility to bring any presentation materials
19 to your attention?

20 A. Not necessarily.

21 Q. Would they have the option to do so if they
22 chose?

23 A. Yes.

24 Q. You mentioned previously that there were
25 some general internal discussions at AIG regarding

1 entertainment business. Do you recall that
2 testimony?

3 A. In what context?

4 Q. It was in the context where you were
5 describing conversations with Sal Nosiferro, and he
6 asked you why Lexington wasn't included in the
7 cession to General Star?

8 A. Yes.

9 Q. Were there -- but I think in your answer to
10 that, you mentioned there were general internal
11 discussions regarding entertainment business?

12 A. Yes.

13 Q. Can you elaborate on that for me a little
14 bit of the nature of those discussions?

15 A. Well, we were writing similar types of
16 business in different geographic areas. One of AIG's
17 challenges was always to get the different
18 underwriting groups to speak to one another, and we
19 were attempting, you know, to do that, to talk more.

20 Q. So these internal discussions were to
21 facilitate communication between the various
22 underwriting arms of AIG?

23 A. Correct.

24 Q. Did these -- did these take the form of
25 internal meetings?

1 A. Informal conversations, really.

2 Q. Were those telephone conversations?

3 A. Largely.

4 Q. Okay. So there wasn't --

5 A. Right.

6 Q. Well, tell me, if there was, was there a
7 general meeting that was called for everybody to come
8 in -- come in to attend and talk about this stuff?

9 A. No.

10 Q. How was it that the various arms doing
11 similar business were put in touch with each other at
12 AIG?

13 A. Very often, they weren't. It was up to the
14 initiative of the individual profit center managers,
15 really.

16 Q. Okay. And what I'm getting at is: There
17 must have been some reason that you were aware of the
18 other underwriting profit centers writing similar
19 business. How were you made aware of that?

20 A. Well, it's in my interest, in growing the
21 international piece, to have a good working
22 relationship with a domestic operation, because an
23 important source of production might be business that
24 arises out of that -- of those domestic producers but
25 has risks outside the U.S. So if we're coordinating

1 our activities, I get to see that business instead of
2 it going out to competing insurers in the
3 marketplace.

4 Q. Was there -- was there some publication or
5 listing within AIG that identified these people so
6 you could contact them?

7 A. No. AIG is not famous for organization
8 charts.

9 Q. So you found these people through your own
10 initiative; is that correct?

11 A. Yes.

12 Q. And one of these people, at the time, was
13 Sal Nosiferro?

14 A. Yes.

15 Q. And would he have been responsible for
16 overseeing the underwriting that Steve Mitchell was
17 doing for Lexington?

18 A. I believe so.

19 Q. Was there -- in the course of your
20 discussions along this line, your internal
21 discussions, other than Sal Nosiferro, was there
22 anybody else involved in those discussions regarding
23 entertainment business?

24 A. Sal had an underwriter in New York who
25 participated in conversations about our entertainment

1 business.

2 Q. Who was that underwriter?

3 A. I don't recall his name.

4 Q. This was an underwriter for Lexington?

5 A. Yes.

6 Q. In what time period was this?

7 A. Mid-'98 and thereafter.

8 MR. COTTON: Can we break for a
9 second?

10 (Break was taken at 1:38 p.m. for
11 less than one minute.)

12 MR. COTTON: Why don't we wrap this
13 up?

14 MR. KLINE: I've got a whole lot
15 questions actually.

16 MR. BANNIGAN: He's acknowledging
17 that.

18 MR. KLINE: And that's fine. That's
19 fine. I'm acknowledging that --

20 MR. COTTON: You seem to be able to
21 stretch it out. I'm not sure that any of these have
22 anything to do with the case or any of the others.

23 MR. KLINE: Well --

24 MR. COTTON: But I'm sure that you
25 could make it to, you know, 14 minutes to 2:00, at

1 which point Mr. Murphy has to go.

2 MR. BANNIGAN: They all seem
3 exquisitely relevant to me.

4 MR. COTTON: We'll call it a day, and
5 we'll fight with you at a future time whether you get
6 another shot.

7 MR. BANNIGAN: Just want to avoid the
8 thunderstorms.

9 MR. COTTON: Right.

10 MR. BANNIGAN: The deposition is
11 adjourned without date.

12 MR. KLINE: Right.

13 MR. COTTON: And I would just note on
14 the record that I dispute that. But we'll fight it
15 out another day.

16 (Proceedings adjourned at 1:39 p.m.)

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CHANGES AND SIGNATURE

PAGE/LINE	CHANGE	REASON FOR CHANGE
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I, THOMAS MURPHY, have read the foregoing deposition and hereby affirm it to be true and correct except as noted herein.

THOMAS MURPHY

INDEX NO. _____

STATE OF TEXAS)

Subscribed and sworn to before me by the said witness, THOMAS MURPHY, on _____, 2001.

NOTARY PUBLIC IN AND FOR

My Commission Expires: _____

1 STATE OF TEXAS)

2 I, Wendy Watson, a Certified Shorthand Reporter
3 in and for the State of Texas, do hereby certify
4 that, pursuant to the agreement hereinbefore set
5 forth, there came before me on the 28th day of
6 August, A.D., 2001, at 8:32 a.m., at the Dallas
7 Marriott, located at 223 West Las Colinas Boulevard,
8 in the City of Irving, State of Texas, the following
9 named person, to wit: THOMAS MURPHY, who was by me
10 duly cautioned and sworn to testify the truth, the
11 whole truth and nothing but the truth, of his
12 knowledge touching and concerning the matters in
13 controversy in this cause; and that he was thereupon
14 carefully examined upon his oath, and his examination
15 was reduced to writing under my supervision; that the
16 deposition is a true record of the testimony given by
17 the witness, same to be sworn to and subscribed by
18 said witness before any Notary Public, pursuant to
19 the agreement of the parties; and that the amount of
20 time used by each party at the deposition is as
21 follows:

22 Mr. Bannigan - 4 hours, 0 minutes,

23 Mr. Kline - 0 hours, 37 minutes,

24 Mr. Cotton - 0 hours, 0 minutes;

25 I further certify that I am neither attorney or

1 counsel for, nor related to or employed by, any of
2 the parties to the action in which this deposition is
3 taken, and further that I am not a relative or
4 employee of any attorney or counsel employed by the
5 parties hereto, or financially interested in the
6 action.

7 I further certify that, before completion of the
8 deposition, the Deponent _____, and/or the
9 Plaintiff/Defendant _____, did ☒ did not _____
10 request to review the transcript.

11 In witness whereof, I have hereunto set my hand
12 and affixed my seal this _____ day of _____,
13 A.D., 2001.

14
15 _____
16 Esquire Deposition Services
17 Dallas, Texas 75202
18 Cert. Expires: 12-31-01

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20 Taxable Cost: \$ _____
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Court Reporter: WENDY WATSON, CSR Number: 6211

Date: August 31, 2001

WENDY WATSON, CSR

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing disclosure has been served on all counsel present at the deposition, and a copy of same will be at the deposition.

WENDY WATSON, CSR